

Senate Bill 537

By: Senators Adelman of the 42nd, Brown of the 26th, Golden of the 8th, Stoner of the 6th,
Seay of the 34th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide a short title; to provide legislative intent and findings; to provide definitions; to
3 provide for certain prohibitions with regard to cloning and sale of tissues; to provide for
4 penalties; to provide for informed consent for donations; to create an umbilical cord and
5 placental tissue bank; to provide for donations and information concerning donations; to
6 provide for certain procedures and costs and fees associated with such bank; to provide for
7 certain employee protections; to provide for a review board and the membership,
8 appointment, terms of office, and duties of such review board; to provide for certain funding
9 mechanisms; to provide for related matters; to amend Article 3 of Chapter 7 of Title 48 of
10 the Official Code of Georgia Annotated, relating to income tax returns and information, so
11 as to authorize taxpayers to make certain contributions through the income tax payment and
12 refund process; to provide an effective date and for applicability; to repeal conflicting laws;
13 and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Search for the Cure Act of 2006."

17 **SECTION 2.**

18 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
19 a new Chapter 46 to read as follows:

20 "CHAPTER 46

21 31-46-1.

22 The General Assembly finds and declares that:

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- (1) Research in the life sciences and regenerative medicine presents a significant chance of yielding therapies that could relieve human suffering from disease and injury;
- (2) Facilitating open scientific inquiry and publicly funded research will be essential to realizing the promise of biomedical research and maintaining this state's leadership in biomedicine and biotechnology which will also benefit the state's economy;
- (3) It is the public policy of this state that research involving the derivation and use of human embryonic stem cells (including somatic cell nuclear transfer, parthenogenesis, and other asexual means), human adult stem cells from any source, human embryonic stem cells, umbilical cord stem cells, parthenotes, and placental cells shall be permitted in this state, shall be conducted with full consideration of the ethical and medical implications of such research, and shall be reviewed by an institutional review board operating in accordance with all applicable federal regulations; and
- (4) It is against the public policy of this state to perform human reproductive cloning.

31-46-2.

As used in this chapter, the term:

- (1) 'Embryo' means an organism of the species homo sapiens whether formed by fertilization, somatic cell nuclear transfer, parthenogenesis, or other means.
- (2) 'Gamete' means a sperm or oocyte.
- (3) 'Human adult stem cells' means undifferentiated cells found in differentiated tissues that can renew themselves and differentiate to yield specialized cell types.
- (4) 'Human cloning' means the asexual genetic replication of a human being by transferring a preimplantation embryo that has been created by somatic cell nuclear transfer, parthenogenesis, or by other asexual means into a uterus or uterine-like environment with the purpose of creating a human fetus or a human child.
- (5) 'Parthenote' means the product of egg development without fertilization.
- (6) 'Placental cells' means cells obtained from a placenta.
- (7) 'Somatic cell' means a nongamete cell obtained or derived from a living or deceased human being.
- (8) 'Somatic cell nuclear transfer' means the technique in which the nucleus of an oocyte is replaced with the nucleus of a somatic cell.
- (9) 'Stem cells' means unspecialized or undifferentiated cells that can self-replicate and have the potential to differentiate into specialized cell types.
- (10) 'Umbilical cord cells' means cells derived from an umbilical cord.
- (11) 'Valuable consideration' means any consideration, excluding reimbursement for reasonable costs incurred in connection with a donation including costs associated with

1 the removal, processing, disposal, preservation, quality control, storage, transplantation,
2 or implantation of gametes or embryonic or cadaveric fetal tissue.

3 31-46-3.

4 (a) Embryonic and cadaveric fetal tissue may not be bought, sold, or otherwise transferred
5 for valuable consideration. Embryonic and cadaveric fetal tissue may be donated in
6 accordance with the provisions of Code Section 31-46-5.

7 (b) Any person who knowingly violates subsection (a) of this Code section shall be guilty
8 of a felony and, upon conviction, shall be sentenced to serve not less than one nor more
9 than five years' imprisonment or pay a fine not to exceed \$100,000.00, or both.

10 (c) Any person who knowingly engages or assists, directly or indirectly, in human
11 reproductive cloning shall be guilty of a felony and, upon conviction, shall be sentenced
12 to serve not less than one nor more than ten years' imprisonment or pay a fine not to exceed
13 \$100,000.00, or both. In addition, all profits from such activity shall be declared to be
14 contraband and shall be forfeited to the state.

15 31-46-4.

16 (a) A physician or other health care provider who is treating a patient for infertility shall
17 provide the patient with timely, relevant, and appropriate information sufficient to allow
18 that person to make an informed and voluntary choice regarding the disposition of any
19 human embryos remaining following the infertility treatment.

20 (b) A person to whom information is provided pursuant to subsection (a) of this Code
21 section shall be presented with the option of storing, donating to another person, donating
22 to research, or other means of disposition of any human embryos remaining following
23 treatment for infertility.

24 (c) A person who donates embryos for research purposes must provide written consent for
25 such donation.

26 31-46-5.

27 (a) Not later than June 30, 2007, the Georgia Commission on Biomedical Research, as
28 created in Code Section 31-46-7, shall establish a public umbilical cord and placental tissue
29 bank in partnership with one or more of the public colleges or universities in this state for
30 the purpose of collecting and storing placental tissue, umbilical cord blood, and donated
31 embryos for which written consent has been obtained pursuant to Code Section 31-46-4.
32 The bank shall make the tissue and blood available for research in accordance with this
33 chapter.

1 (b) Beginning June 30, 2007, all physicians and hospitals in this state shall inform
2 pregnant patients no later than 30 days from the commencement of the patient's third
3 trimester of pregnancy of the opportunity to donate placental tissue and umbilical cord
4 blood to the bank.

5 (c) Institutions desiring to conduct research with tissue and blood from the bank shall enter
6 into an agreement with the bank to cover all administrative costs and fees associated with
7 the bank as well as the expenses incurred in the collection and storage of the tissue and
8 blood.

9 (d) Nothing in this Code section shall be construed to prohibit a patient from donating to
10 a private blood and tissue bank.

11 (e) Any institution that houses the tissue bank shall have an institutional review board
12 established which shall be available on an ongoing basis to review the research procedures
13 and conduct of any institution or researcher desiring to conduct research with tissue and
14 blood from the bank. Such institutional review board shall be established not later than
15 June 30, 2007. The institutional review board shall establish procedures to protect and
16 ensure the privacy rights of blood and tissue donors.

17 (f) Institutions and researchers receiving federal funds for stem cell research shall be
18 eligible to apply to use tissue and blood from the bank. The institutional review board shall
19 verify that the federal government has authorized such research and, upon verifying such
20 authorization, shall grant the application.

21 31-46-6.

22 (a) An employee shall not be required to conduct any scientific research, experimentation,
23 or study that involves the creation or use of preimplantation embryos in relation to human
24 embryonic stem cell research to the extent that such research, experimentation, or study
25 conflicts with the sincerely held religious practices or beliefs of the employee.

26 (b) An institution conducting research pursuant to this chapter shall not take any retaliatory
27 action against an employee because the employee:

28 (1) Disclosed or threatened to disclose that the institution is in violation of any of the
29 provisions of this chapter; or

30 (2) Objected to or refused to participate in any activity, policy, or practice that the
31 employee reasonably believes is in violation of any of the provisions of this chapter.

32 (c) The protection against retaliatory action shall not apply to the public disclosure of
33 confidential or proprietary information, trade secrets, or other confidential materials unless
34 such confidential disclosure is made by the employee directly to and exclusively with the
35 office of the Attorney General or a prosecuting attorney or the Georgia Commission on

1 Biomedical Research. The Georgia Commission on Biomedical Research shall not publicly
2 disclose any such confidential information, but shall immediately submit the information
3 to the Attorney General.

4 (d) Any employee aggrieved by a violation of this Code section may, within two years of
5 the occurrence of such violation, file a complaint with the Attorney General, who may
6 bring an action in the name of the state against the institution alleged to have violated this
7 Code section. The Attorney General shall notify the complainant in writing within 90 days
8 after receiving such complaint whether the Attorney General intends to bring such an
9 action in the name of the state. If the Attorney General declines to bring an action based
10 upon the complaint filed, the aggrieved employee may, within one year after such
11 notification by the Attorney General, institute an action in the superior court. All remedies
12 available in common law tort actions shall be available to prevailing plaintiffs. In addition
13 to any other legal or equitable relief provided, the court may:

14 (1) Issue temporary restraining orders or preliminary or permanent injunctions to restrain
15 continued violations of this Code section;

16 (2) Reinstate the employee to the same position held before the retaliatory action or to
17 an equivalent position;

18 (3) Reinstate full fringe benefits and seniority rights to the employee;

19 (4) Compensate the employee for three times the lost wages, benefits, and other
20 remuneration and interest thereon; and

21 (5) Order payment by the institution of reasonable costs and attorney's fees.

22 (e) In any action brought by an employee under this Code section, if the court finds that
23 such was without basis in law or in fact, the court may award reasonable attorney's fees and
24 court costs to the institution.

25 (f) An employee shall not be assessed attorney's fees under subsection (e) of this Code
26 section if, after exercising reasonable and diligent efforts after bringing an action, the
27 employee moves to dismiss the action against the institution or files a notice agreeing to
28 a voluntary dismissal within a reasonable time after determining that the institution would
29 not be found liable for damages.

30 (g) Nothing in this Code section shall be deemed to diminish the rights, privileges, or
31 remedies of any employee under any other federal or state law or regulation or under any
32 collective bargaining agreement or employment contract; provided, however, that
33 instituting a private action under subsection (d) of this Code section shall be deemed a
34 waiver by the plaintiff of the rights and remedies available to him or her for the actions of
35 the institution under any other contract; collective bargaining agreement; state law, rule,
36 or regulation; or the common law.

1 (h) An institution shall publicly display notices reasonably designed to inform its
2 employees of their protection and obligations under this Code section and use other
3 appropriate means to keep its employees so informed. Each notice posted pursuant to this
4 subsection shall include the name of the person or persons the institution has designated
5 to receive written notification of a suspected violation of this chapter.

6 31-46-7.

7 (a) There is created the Georgia Commission on Biomedical Research which shall consist
8 of 15 members appointed as provided in this Code section.

9 (b) Five members shall be appointed by the Governor, one of whom shall be an employee
10 of an institution selected to house the tissue bank established in Code Section 31-46-5 and
11 one of whom shall be a representative of a public or private university or medical school.
12 The Governor shall appoint three members to serve initial terms of three years and two
13 members to serve initial terms of two years. Thereafter, successors to such initial
14 appointees shall serve terms of three years. The Governor shall designate one of the
15 persons so appointed to be the chairperson of the commission.

16 (c) Five members shall be appointed by the Lieutenant Governor. Of these five members,
17 there shall be at least one of each of the following: a physician licensed to practice
18 medicine in this state, a medical ethicist, a scientific researcher in stem cell research, and
19 an attorney with experience in public health or biotechnology law. The Lieutenant
20 Governor shall appoint three members to serve initial terms of three years and two
21 members to serve initial terms of two years. Thereafter, successors to such initial
22 appointees shall serve terms of three years.

23 (d) Five members shall be appointed by the Speaker of the House of Representatives. Of
24 these five members, there shall be at least one of each of the following: a physician
25 licensed to practice medicine in this state, a medical ethicist, a scientific researcher in stem
26 cell research, and an attorney with experience in public health or biotechnology law. The
27 Speaker of the House of Representatives shall appoint three members to serve initial terms
28 of three years and two members to serve initial terms of two years. Thereafter, successors
29 to such initial appointees shall serve terms of three years.

30 (e) Members of the commission shall be eligible to succeed themselves. The initial terms
31 of office shall begin on July 1, 2006. Appointments shall be made by the respective
32 appointing authorities no later than June 15, 2006. Thereafter, appointments of successors
33 shall be made by the respective appointing authority no later than June 1 of the year in
34 which the member's term of office expires. Vacancies shall be filled for the unexpired
35 term by the respective appointing authority.

(f) The commission shall meet at least four times per year at the call of the chairperson or upon the request of at least seven of its members.

(g) The commission shall have the following duties and responsibilities:

(1) To investigate the implementation of this chapter and to recommend any improvements to the General Assembly;

(2) To make available to the public the records of all meetings of the commission and of all business transacted by the commission;

(3) To promulgate rules and regulations governing the disposition of state funding for stem cell research and to implement the provisions of this chapter;

(4) To evaluate research proposals and determine which proposals shall receive state funding;

(5) To oversee the operations of the tissue bank established in Code Section 31-46-5, including approving all fees established to cover administration, collection, and storage costs;

(6) To determine the intellectual property rights of the state and the researchers whose research is supported or funded with state funds;

(7) To employ such staff as necessary to fulfill its duties and responsibilities under this chapter subject to funding by the General Assembly; and

(8) To report annually to the General Assembly in December of each year concerning the activities of the commission with recommendations for any legislative changes or funding necessary or desirable to fulfill the goals of this chapter.

(h) The commission may request additional funding from any additional source including, but not limited to, private grants.

(i) The commission may establish a separate not for profit organization or foundation for the purposes of supporting the tissue bank established pursuant to Code Section 31-46-5."

SECTION 3.

Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax returns and information, is amended by adding at its end a new Code Section 48-7-63 to read as follows:

"48-7-63.

(a) Each Georgia income tax return form for taxable years beginning on or after January 1, 2006, shall contain appropriate language, to be determined by the state revenue commissioner, offering the taxpayer the opportunity to contribute to stem cell research through the Georgia Commission on Biomedical Research by either donating all or any part of any tax refund due, by authorizing a reduction in the refund check otherwise payable,

1 or by contributing any amount over and above any amount of tax owed by adding that
2 amount to the taxpayer's payment. The instructions accompanying the income tax return
3 form shall contain a description of the purposes for which the commission was established
4 and the intended use of moneys received from the contributions. Each taxpayer required
5 to file a state income tax return who desires to contribute to the commission may designate
6 such contribution as provided in this Code section on the appropriate income tax return
7 form.

8 (b) The Department of Revenue shall determine annually the total amount so contributed
9 and shall transmit such amount to the Georgia Commission on Biomedical Research."

10 **SECTION 4.**

11 (a) This Act shall become effective upon its approval by the Governor or upon its becoming
12 law without such approval.

13 (b) Section 3 of this Act shall apply to all taxable years beginning on and after January 1,
14 2006.

15 **SECTION 5.**

16 All laws and parts of laws in conflict with this Act are repealed.